Docket No. 740301-0396

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of:	)	
Joseph B. SAINTON	)	
Serial No. 09/670,696	)	Examiner: P. Sobutka
Filed: September 28, 2000	)	
For: ADAPTIVE OMNI-MODAL RADIO	)	Art Unit: 2683
APPARATUS AND METHODS	)	

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PETITION TO MAKE SPECIAL
UNDER 37 C.F.R. 1.102(c,d) AND MPEP 708.01(II)

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

In accordance with the provisions of 37 C.F.R. 1.102(c) and (d) and MPEP 708.02(II), Applicant requests that the above identified application be granted special status under Category II of MPEP 708.02 since the claimed invention has been actually infringed. In support of this petition the following statements are made:

1. There is at least one infringing device actually on the market as evidenced by the attached claim charts

2. A rigid comparison of the alleged infringing device(s) has been made as can be seen from the attached claim 24 comparison charts with multi-modal communication devices manufactured by Ericsson (R380), Toshiba (CDM9100), Siemens (S40), Samsung (SCH8500), and Nokia
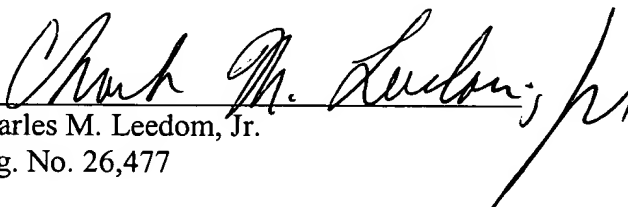
(8890). Unquestionably, some of the claims of the instant application are infringed, including those added by the Second Preliminary Amendment filed on even date herewith.

3. A thorough and careful search of the prior art has been made in the parent applications resulting in USP 5,854,985 and USP 6,134,453 and caused to be made in the instant application which resulted in the filing of the Information Disclosure Statements of March 5, 2001 and August 23, 2001 (copies of the references had been provided with each IDS).

In view of the foregoing, applicant respectfully requests that special status be granted to the above identified application.

The required fee in the form of a check for the instant petition accompanied the filing of this paper. However, in the event the check becomes separated (or lost) from the instant petition, then the USPTO is authorized to charge any overage or shortage in the required payment to **Deposit Account No. 19-2380.**

Respectfully submitted,

Charles M. Leedom, Jr.
Reg. No. 26,477

Nixon Peabody LLP
8180 Greensboro Drive, Suite 800
McLean, Virginia 22102
(703) 790-9110
(703) 883-0370 (fax)

CML/JWM

U.S. Appl. No. 09/670,696	U.S. Appl. No. 09/670,696 (support)	Ericsson R380
Claim 24. A multi-modal device for facilitating wireless communication over any one of a plurality of wireless communication networks at least some of which may be available and operating at a given time and location using differing radio frequency modulation protocols and over differing radio frequencies, comprising	Claim 24. A multi-modal device for facilitating wireless communication over any one of a plurality of wireless communication networks at least some of which may be available and operating at a given time and location using differing radio frequency modulation protocols and over differing radio frequencies, (Figures 1a-1b; column 16, lines 28-31) comprising:	The R380 World phone (See R380 Product Sheet at http://www.ericsson. com/R380/specifications_index_blue.html and World User's Guide" at http://www.ericsson.com /consumers/spg.jsp?page=H2.1.1.2&ProdI D=9494&CLP=H2.1.1&CLM=MPS_menu &G_link=MPLINK&CatID=50&SubName =MPS_menu) provides a cell phone including a transceiver circuit that is operable to access a plurality of different kinds of networks (pages 6, 89-91). The R380 includes a dual band phone "which means that you can use your phone on two different kinds of networks- the GSM 900 and GSM 1900 systems" (see GSM World -Glossary, page 2 at //www.gsmworld.com/ news/press_release_ 8.html, and Overview, page 2, 7, 14 at /ccnga.uwaterloo.ca/ ~jscouria/GSM/gsmreport.html). The fact that the R380 phone is required to adjust its settings for operation over GSM900 network or a GSM1900 network is one example of the R380 using different standardized "operating protocols" within the meaning of claim 1.
a frequency agile radio transceiver capable of operating at any frequency or frequencies appropriate for each of the plurality of wireless communication networks, said frequency or frequencies selected in response to a frequency control signal;	a frequency agile radio transceiver capable of operating at any frequency or frequencies appropriate for each of the plurality of wireless communication networks, (Figures 1a-1b; column 5, lines 5-13; column 6, lines 15-34) said frequency or frequencies selected in response to a frequency control signal (column 8, lines 28-39);	The R380 contains the radio transceiver, to access one of a plurality of different networks, which may be a GSM900 or GSM1900 type of network, e.g., Novell Group Wise (Product Sheet) and allows transmission and receipt of voice/data over such different networks (see above).

an interface circuit for interconnecting said frequency agile radio transceiver with an external signal circuit to allow signal information to be sent and received over said frequency agile radio transceiver;	(See Figure 1b; column 8, lines 19-67; column 9, lines 1-19)	R380 contains an interface circuit, which interlinks its operative components such as the radio transceiver, to access one of a plurality of different networks, which may be a GSM900 or GSM1900 type of network (Product Sheet) and allows transmission and receipt of data over such different networks (see above).
a protocol agile operating circuit for operating said frequency agile radio transceiver and said interface circuit in accordance with any one modulation protocol of a plurality of modulation protocols, said one modulation protocol selected in response to a protocol control signal;	(See Figure 1a-1b, elements 8, 12, 14, 16, A, 110; column 7, lines 19-67; column 8, lines 1-41)	The fact that the R380 phone is required to adjust its settings for operation over (pages 89-91) GSM900 network or a GSM1900 network is one example of the R380 having a protocol agile operating circuit for operating the interface circuit/transceiver using different standardized "operating protocols" within the meaning of claim 1. Because the R380 electronically configures itself to operate over either of the two types of networks, the R380 must respond to a protocol control signal.
adaptive control circuit for determining which wireless communications networks are available at a given location and time, for accessing a selected wireless communication network,	(See Figures 1a-1b, elements 4, 10, 18, 20, 110, 122, 146; column 8, lines 42-67)	As pointed out (User Guide, pages 89-91), the R380 circuitry allows a user to specify a particular network, i.e., current network, home network, available network, or even a forbidden network, OR permit the R380 to automatically search for last network and, if not found, automatically starts searching for a network from a user edited preferred list of networks stored on the SIM card (page 6-11, 90, 91).
and for generating the frequency control signal and the protocol control signal in response to a user defined individual priority to cause the device to communicate with the selected wireless	(See Figure 1b, element 118; column 9, lines 20-67; column 10, lines 1-14)	Because the R380 operates over different networks operating over different frequencies using different protocols, and converts from one to the other network under electronic control, the R380 must

communication network using the frequencies and modulation protocol suitable for transmission of said signal information over said selected wireless communication network; and		respond to frequency control and protocol control signals. In the manual or automated network selection mode, the user will inherently be creating or defining a user criteria for network selection to cause the device to generate the appropriate control signals (pages 89-91).
input means for receiving and storing the user defined individual priority for selecting among the plurality of wireless communication networks and for allowing subsequent changes by the user of the stored user defined individual priority whenever desired by the user, said user defined individual priority defining which one of the wireless communication networks is accessed among the wireless communication networks that are determined by said adaptive control circuit to be available;	(See Figure 2, elements 202, 206; Figure 3, elements 316; column 10, lines 42-67; column 11; column 12, lines 1-33)	The User Manual, pages 90-95, describes the method of inputting new networks and editing the order of networks to be stored on the SIM card. Since the user is also provided with an indication of signal strength (page 26) and broadcast information, e.g. voice mail (page 33) regarding a particular network. User selection by these two criteria, and operation of the manual or automatic search for network specified, are within the meaning of this element of claim 1
wherein said adaptive control circuit operates to generate said frequency control signal and said protocol control signal appropriate for the wireless communication network that is determined by said adaptive control means to be available and satisfies said user defined individual priority.	(See column 16, lines 28-67; column 17, lines 1-20)	By determining whether certain networks have sufficient signal strength (e.g. the "quality" of a wireless network) to be accessible and by comparing such availability to list of preferred networks the "comparison" required by this paragraph is met.

U.S. Appl. No. 09/670,696	Toshiba CDM 9100
Claim 24. A multi-modal device for facilitating wireless communication over any one of a plurality of wireless communication networks at least some of which may be available and operating at a given time and location using differing radio frequency modulation protocols and over differing radio frequencies, comprising	The CDM 9100 Tri-mode CDMA phone provides both the functions of a conventional cell phone and a data processor, i.e., phone number storage and recall, text messaging, network preference programmability, fax/data calls – (See CDM 9100 Owner's Manual, pages. 27+, 34+, 57+, 86, at www.audiovox.com/cgi-bin/ncommerce3/ExecMacro /product_ faqmanual.d2w/input?prrfnbr =552922&MainPage=&cat=) to provide the user with wireless communication. The CDM 9100 is a tri-mode phone (See CDM 9100 Product information at www.audiovox.com/cgi-bin/ncommerce3/ExecMacro/product_mainpage .d2w/input?prrfnbr=552922) which means the phone can operate on three different kinds of networks- the 1.9 GHz (CDMA-PCS), 800MHz (CDMA), and analog systems.
a frequency agile radio transceiver capable of operating at any frequency or frequencies appropriate for each of the plurality of wireless communication networks, said frequency or frequencies selected in response to a frequency control signal;	The basic function of the CDM 9100 is to provide access to a plurality of different public communications networks. CDM 9100 contains the radio transceiver, to access one of a plurality of different networks, and the fact that the CDM 9100 phone is required to adjust its settings for operation over a 1.9 GHz CDMA, 800MHz CDMA, or analog network is one example of the CDM 9100 being frequency agile by using different standardized "operating...protocols" within the meaning of claim 1.
an interface circuit for interconnecting said frequency agile radio transceiver with an external signal circuit to allow signal information to be sent and received over said frequency agile radio transceiver;	The basic function of the CDM 9100 is to provide access to a plurality of different public communications networks. CDM 9100 contains an interface circuit, which interlinks its operative components and including the radio transceiver, to access one of a plurality of different networks, which may be a 1.9 GHz CDMA, 800MHz CDMA, or analog type of network and allows transmission and receipt of voice/data over such different networks.
a protocol agile operating circuit for operating said frequency agile radio transceiver and said interface circuit in accordance with any one modulation protocol of a plurality of modulation protocols, said one modulation protocol selected in response to a protocol control signal;	The fact that the CDM 9100 phone is required to adjust its settings for operation over different networks, which may be a 1.9 GHz CDMA, 800MHz CDMA, or analog type of network, is one example of the CDM 9100 having a protocol agile operating circuit for operating the interface circuit/transceiver using different standardized "operating protocols" within the meaning of claim 1.

adaptive control circuit for determining which wireless communications networks are available at a given location and time, for accessing a selected wireless communication network,	As pointed out in the CDM 9100 documentation (See Owner's Manual, pages 80-81), the CDM 9100 circuitry allows for a user to specify a particular network, i.e., current A network(s), current B network(s) using the enhanced roaming feature, home network only, OR analog only, therefore, upon determining the user's desires (supplied in real time or pre-programmed in accordance with A only or B only or Analog only or preferred NAM selection - due to user criteria such as signal strength supplied by the network service provider), the appropriate settings are retrieved/accessed (from the CDM 9100 memory) by the CDM 9100 operating system to permit network access and to allow voice/data transmission as desired by the user or requested/sent automatically by the CDM 9100 phone.
and for generating the frequency control signal and the protocol control signal in response to a user defined individual priority to cause the device to communicate with the selected wireless communication network using the frequencies and modulation protocol suitable for transmission of said signal information over said selected wireless communication network; and	See paragraph immediately above.
input means for receiving and storing the user defined individual priority for selecting among the plurality of wireless communication networks and for allowing subsequent changes by the user of the stored user defined individual priority whenever desired by the user, said user defined individual priority defining which one of the wireless communication networks is accessed among the wireless communication networks that are determined by said adaptive control circuit to be available;	The CDM 9100 (see Owner's Manual, pages 80-81), describes the method of selecting new networks to be stored in memory. Since the user is also provided with an indication of signal strength and other broadcast information regarding a particular network services offered, the user selection by one of those criteria , operation of the manual selection as described above, and connection of the call are within the meaning of this element of claim 1

wherein said adaptive control circuit operates to generate said frequency control signal and said protocol control signal appropriate for the wireless communication network that is determined by said adaptive control means to be available and satisfies said user defined individual priority.	See paragraph immediately above.

U.S. Appl. No. 09/670,696	Siemens S40
Claim 24. A multi-modal device for facilitating wireless communication over any one of a plurality of wireless communication networks at least some of which may be available and operating at a given time and location using differing radio frequency modulation protocols and over differing radio frequencies, comprising	The S40 phone (See S40 User Guide at "www.my-siemens.com/com.aperto/mysiemens") provides a transceiver circuit for a cellular telephone and is operable to access plural networks as a tri band, phone which means that you can use the S40 phone on three different kinds of networks- of three different frequencies GSM 900, GSM 1800, and GSM 1900 (See User Guide, page 56, 84).
a frequency agile radio transceiver capable of operating at any frequency or frequencies appropriate for each of the plurality of wireless communication networks, said frequency or frequencies selected in response to a frequency control signal;	The basic function of the S40 is to provide access to a plurality of different public communications networks. The S40 contains the radio transceiver, to access one of a plurality of different networks, that is a GSM 900, GSM 1800, and GSM 1900 networks. These networks operate on different frequencies, and allow transmission and receipt of data over such different networks (see above). The fact that the S40 phone is required to adjust its settings (See User Guide, page 56) for operation over a GSM 900, GSM 1800, and GSM 1900 type of network is one example of the S40 operating at different frequencies appropriate for the network being accessed.
an interface circuit for interconnecting said frequency agile radio transceiver with an external signal circuit to allow signal information to be sent and received over said frequency agile radio transceiver;	The S40 contains an interface circuit, which interlinks its operative components such as the radio transceiver to an external voice/data circuit, to access one of a plurality of different networks, which may be a GSM 900, GSM 1800, and GSM 1900 type of network (See User Guide, pages 56, 84) and allows transmission and receipt of voice/ data over such different networks (See User Guide, page 66).
a protocol agile operating circuit for operating said frequency agile radio transceiver and said interface circuit in accordance with any one modulation protocol of a plurality of modulation protocols, said one modulation protocol selected in response to a protocol control signal;	The fact that the S40 phone is required to adjust its settings for operation over a GSM 900, GSM 1800, and GSM 1900 type of network is one example of the S40 having a protocol agile operating circuit for operating the interface circuit/transceiver using different standardized "operating protocols" within the meaning of claim 1.

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adaptive control circuit for determining which wireless communications networks are available at a given location and time, for accessing a selected wireless communication network,	As pointed out (See User Guide, pages 56-57, the S40 circuitry allows a user to specify a particular network list, i.e., preferred list with an order of preference, which permits the S40 to automatically search for a selected 'home" network from the list first and, if not found, automatically starts searching for the second "home" network from a user edited preferred list of networks stored in the phone.
and for generating the frequency control signal and the protocol control signal in response to a user defined individual priority to cause the device to communicate with the selected wireless communication network using the frequencies and modulation protocol suitable for transmission of said signal information over said selected wireless communication network; and	See paragraphs immediately above.
input means for receiving and storing the user defined individual priority for selecting among the plurality of wireless communication networks and for allowing subsequent changes by the user of the stored user defined individual priority whenever desired by the user, said user defined individual priority defining which one of the wireless communication networks is accessed among the wireless communication networks that are determined by said adaptive control circuit to be available;	The S40 documentation (see User Guide, pages 56-57) describes the method of inputting/editing a new order to the list of networks stored in the S40, and re-editing the order of networks to be stored. Since the user is also provided with an indication of signal strength (pages 2, 62), cost of a call or calls (pages 65) and broadcast information regarding a particular network service offered, i.e., roaming, weather (page 48), user editing of the list of networks to select first a particular GSM 900, GSM 1800, or GSM 1900 network by one of those criteria, and then operation of the manual or automatic search for the networks specified, and finally connection of the call are within the meaning of this element of claim 1. Note, further that if the user selects "all 3 network types the telephone will automatically start searching for the network that offers the best connection."

wherein said adaptive control circuit operates to generate said frequency control signal and said protocol control signal appropriate for the wireless communication network that is determined by said adaptive control means to be available and satisfies said user defined individual priority.	See paragraph immediately above.

U.S. Appl. No. 09/670,696	Samsung SCH 8500
Claim 24. A multi-modal device for facilitating wireless communication over any one of a plurality of wireless communication networks at least some of which may be available and operating at a given time and location using differing radio frequency modulation protocols and over differing radio frequencies, comprising	The SCH 8500 dual band phone (See User Guide at samsungelectronics.com /mobile_phone/support/downloads/down) directly infringes this claim. In particular the SCH 8500 (see Sprint PCS – Equipment Features at e12.sprintpcs.com / store/show_phone.asp?sku=sch8500shs) provides voice/data transfer over a PCS-CDMA network and non-PCS-CDMA networks, as well as voice over analog networks. To do this, the SCH 8500 includes the feature of allowing a user to select from several roaming options, including "automatic" to search for available PCS or non-PCS networks or analog networks (See User's Guide, page 32), PCS only search (no roaming), or analog only. Since the SCH 8500 can distinguish between PCS, non-PCS networks, and analog networks for call placement, the SCH 8500 must contain frequency/protocol information for each within its circuitry.
a frequency agile radio transceiver capable of operating at any frequency or frequencies appropriate for each of the plurality of wireless communication networks, said frequency or frequencies selected in response to a frequency control signal;	The SCH 8500 contains a radiofrequency transceiver, connected through circuitry to memory, capable of call placement over a plurality of wireless communication networks (CDMA and analog) operating at different frequencies (See User Guide, pages 32-34). Therefore, the basic function of the SCH 8500 is to provide access to a plurality of different public communications networks, and allows transmission and receipt of voice/data over such different networks (see above). The fact that the SCH 8500 phone is required to adjust its settings for operation over a PCS-CDMA network or a non-PCS-CDMA or an analog network is an example of the SCH 8500 using different standardized "operating protocols" within the meaning of claim 1.
an interface circuit for interconnecting said frequency agile radio transceiver with an external signal circuit to allow signal information to be sent and received over said frequency agile radio transceiver;	As pointed out above, the basic function of the SCH 8500 is to provide access to a plurality of different public communications networks. SCH 8500 contains an interface circuit, which interlinks its operative components such as the radio transceiver, to enable access to one of a plurality of different networks, which may be a PCS-CDMA or a non-PCS-CDMA type of network (see product sheet referred to above) and allows transmission and receipt of voice/ data over such different networks (see above).
a protocol agile operating circuit for operating said frequency agile radio transceiver and said interface circuit in accordance with any one modulation protocol of a plurality of modulation protocols, said one modulation protocol selected in response to a protocol control signal;	The fact that the SCH 8500 phone is required, in one operating mode, to "automatically" adjust its settings for operation over a PCS-CDMA or a non-PCS-CDMA or an analog network is one example of the SCH 8500 having a protocol agile operating circuit for operating the interface circuit/transceiver using different standardized "operating protocols" within the meaning of claim 1.

adaptive control circuit for determining which wireless communications networks are available at a given location and time, for accessing a selected wireless communication network,	As pointed out (User Guide, pages 31-32), the SCH 8500 circuitry allows for a user to specify a particular network, i.e., user specified PCS-only network, automatically search for available PCS, non-PCS, or analog network, or user specified analog- only network. This paragraph of claim 1 merely requires that the handset operate to determine accessibility of a network such as the type of operating protocol of the network (CDMA or AMPS) and/or its signal strength (See User Guide, page 21) and/or its capacity to assign an unused communication channel (Access is either allowed or denied based on a real time operating characteristic of the network). Each one of these determinations is a real time operating characteristic of the respective networks that may be serving a particular region.
and for generating the frequency control signal and the protocol control signal in response to a user defined individual priority to cause the device to communicate with the selected wireless communication network using the frequencies and modulation protocol suitable for transmission of said signal information over said selected wireless communication network; and	When the user preprograms the SCH 8500 to operate in a predetermined network selection mode (e.g. "automatic," "Sprint PCS or No Roaming," or "Analog") the SCH 8500 is being preprogrammed to select a network based on these "real time characteristics" of minimum signal strength and "network capacity" and whether the network serves the preprogrammed preferences of the user as defined by selection of one of the selection modes (e.g. "automatic," "Sprint PCS or No Roaming," or "Analog").
input means for receiving and storing the user defined individual priority for selecting among the plurality of wireless communication networks and for allowing subsequent changes by the user of the stored user defined individual priority whenever desired by the user, said user defined individual priority defining which one of the wireless communication networks is accessed among the wireless communication networks that are determined by said adaptive control circuit to be available;	The SCH 8500 has the ability, using the keypad and on-screen menus (See User Guide, page 32), to input user criteria, e.g., "automatic," "Sprint PCS or No Roaming," or "Analog"). Unlike the prior art, these modes of operation are more sophisticated than merely preselecting a network. Instead, the modes produce a different selection based on real time operating characteristics. Preprogramming of one of these modes of automatic selection of networks can reflect the user preferences for avoiding the higher cost of roaming charges (User Guide, page 33) or the higher quality signal over AMPS or greater security as compared with AMPS, (User Guide, page 34).

wherein said adaptive control circuit operates to generate said frequency control signal and said protocol control signal appropriate for the wireless communication network that is determined by said adaptive control means to be available and satisfies said user defined individual priority.	Note, the SCH 8500 circuitry for (PCS or analog only/automatic) selection of a network based upon signal strength, or cost of calls (User Guide, pages 22, 31) would be a user defined operating characteristic determined in real time which would enable the SCH 8500 to switch from the current call placement frequency/protocols (if different) to the frequency/protocols for the now selected network. These are features which are not appreciated or taught by the Gilig and Olson patents cited during prosecution, and are also not appreciated by USP 6,058,316, USP 5,020,092, USP 5,020,093. These later patents do not teach real time monitoring of the networks available, providing that information to the user, and permitting the user to specify (according to criteria such as cost or signal strength) a particular network for call placement.

U.S. Appl. No. 09/670,696	Nokia 8890
Claim 24. A multi-modal device for facilitating wireless communication over any one of a plurality of wireless communication networks at least some of which may be available and operating at a given time and location using differing radio frequency modulation protocols and over differing radio frequencies, comprising	The 8890 phone (See "Nokia 8890 Digital Product Guide & User's Guide" pages73, 115 at www.nokiausa.com) provides both the functions of a conventional cell phone and a robust amount of data processing capability. Thus the 8890 includes a personal data processing device, i.e., SIM (8890 User Guide pages 9, 10, 87-92) connected with a multi-modal (GSM900/GSM1900) cellular telephone (Product Guide, page 2). The transceiver circuit of the cellular telephone is operable to access two different kinds of networks available and operating simultaneously to provide seamless roaming– i.e., the GSM 900 and GSM 1900 systems. (see GSM World –Glossary, page 2 at //www.gsmworld.com/news/press_release_ 8.html, and Overview, page 2, 7, 14 at //ccnga.uwaterloo.ca/~jscouria/GSM/gsmreport.html).
a frequency agile radio transceiver capable of operating at any frequency or frequencies appropriate for each of the plurality of wireless communication networks, said frequency or frequencies selected in response to a frequency control signal;	One function of the 8890 is to provide access to a plurality of different public communications networks. 8890 contains the radio transceiver, to access one of a plurality of different networks, which may be a GSM900 or GSM1900 type of network, and allows transmission and receipt of data over such different networks (see above). The fact that the 8890 phone is required to adjust its settings for operation over GSM900 network or a GSM1900 network is one example of the 8890 using different standardized "operating protocols" within the meaning of claim 1.
an interface circuit for interconnecting said frequency agile radio transceiver with an external signal circuit to allow signal information to be sent and received over said frequency agile radio transceiver;	The basic function of the 8890 is to provide access to a plurality of different public communications networks to allow the user seamless use of the phone in the US or in Europe (See 8890 Product Guide, page 2 for listing of areas of use). The 8890 contains an interface circuit, which interlinks its operative components such as the radio transceiver, to access one of a plurality of different networks, which may be a GSM900 or GSM1900 type of network (see product sheet referred to above) and allows transmission and receipt of voice/data over such different networks (User Guide, page 73).
a protocol agile operating circuit for operating said frequency agile radio transceiver and said interface circuit in accordance with any one modulation protocol of a plurality of modulation protocols, said one modulation protocol selected in response to a protocol control signal;	The fact that the 8890 phone is required to adjust its settings for operation over an EGSM900 network, GSM900 network or a GSM1900 network (User Guide, page 115) is an example of the 8890 having a protocol agile operating circuit for operating the interface circuit/transceiver using different standardized "operating protocols" for GSM900 and GSM1900 networks , which are stored in memory/SIM card within the meaning of claim 1. (8890 User Manual, pages 9, 73; GSM World – Glossary page 7; Overview pages 14-15)

adaptive control circuit for determining which wireless communications networks are available at a given location and time, for accessing a selected wireless communication network,	As pointed out in the 8890 User Guide (page 73), the 8890 circuitry allows for a user to specify a particular network, i.e., current network, OR permit the 8890 to automatically search for the home or last network and, if not found, automatically starts searching for a network from a user preferred list of networks stored in memory or on the SIM card. (GSM World – Glossary, pages 7 and 8). By determining that a network signal exists and that a communication capability over that network is possible, the 8890 phone is inherently determining, on a real time basis, the "operating characteristics" of the network.
and for generating the frequency control signal and the protocol control signal in response to a user defined individual priority to cause the device to communicate with the selected wireless communication network using the frequencies and modulation protocol suitable for transmission of said signal information over said selected wireless communication network; and	From the discussion in the paragraph above, a frequency control signal and protocol signal would inherently be produced by the 8890 when initially accessing a network or when switching to another network, e.g., between GSM900 and GSM1900 networks
input means for receiving and storing the user defined individual priority for selecting among the plurality of wireless communication networks and for allowing subsequent changes by the user of the stored user defined individual priority whenever desired by the user, said user defined individual priority defining which one of the wireless communication networks is accessed among the wireless communication networks that are determined by said adaptive control circuit to be available;	The User Manual (pages 9, 73) describes the method of inputting new networks via replacement SIM card. Since the user is also provided with an indication of signal strength (page 13), cost of a call or all calls (pages 57-58) and broadcast information regarding a particular network services offered (pages 7). User selection of a network by these criteria, operation of the manual or automatic search for network specified, and connection of the call are within the meaning of this element of claim 1.

wherein said adaptive control circuit operates to generate said frequency control signal and said protocol control signal appropriate for the wireless communication network that is determined by said adaptive control means to be available and satisfies said user defined individual priority.	Note, the 8890 (manual/automatic) selection of network base upon signal strength, or cost of calls (User Guide, pages 7, 57, 58) would be a user defined operating characteristics determined in real time.